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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,476	09/10/2003	Louis A. Rhodes	706568US1	3436
24938	7590	07/16/2004	EXAMINER	
DAIMLERCHRYSLER INTELLECTUAL CAPITAL CORPORATION			GUTMAN, HILARY L	
CIMS 483-02-19			ART UNIT	
800 CHRYSLER DR EAST			PAPER NUMBER	
AUBURN HILLS, MI 48326-2757			3612	

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/659,476

Applicant(s)

RHODES ET AL.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/10/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "passenger" of claims 1, 10, 15, 18, and 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

2. Claim 18 is objected to because of the following informalities: on line 5, "a passenger" should apparently be "the passenger". Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "optionally " (line 2) renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 15, the phrase "optionally " (lines 1 and 5) renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 20, the phrase "optionally " (lines 1 and 4) renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 10-15, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Koiwa et al.

Koiwa et al. (6,217,096) disclose a vehicle body, comprising a first compartment, a second compartment rearwardly adjacent the first compartment (Figure 6A), and a rear wallgate (Figures 6A-6C) of the first compartment separating the first and second compartments from one another, the rear wallgate being attached at a lower edge thereof (at hinge pins 10) for pivoting movement from a vertical position (Figure 6A), whereat the rear wallgate at least partially separates the first compartment from the second compartment, to a horizontal position (Figures 6B-C), whereat the rear wallgate extends into the second compartment, the rear wallgate further defining an interior surface thereof facing into the first compartment when the rear wallgate is in the vertical position and facing generally upward when the rear wallgate is in the horizontal position, the rear wallgate further including a passenger seating cushion 7 attached to the interior wall of the rear wallgate, whereby a passenger (not shown) may be seated on the cushion when the rear wallgate is in the horizontal position.

With regard to claim 2, the first compartment further includes a rear window (not numbered, Figure 6A).

With regard to claim 3, the rear window is retractable into the rear wallgate.

With regard to claim 4, the rear window is removable or capable of being removed and specifically is removed from a use position into a stowed position.

With regard to claim 5, the rear window is stowable within the rear wallgate.

With regard to claim 10, Koiwa et al. further included a folding seat back 8 operatively attached to the rear wallgate for movement from a folded position (seen in Figures 6A-B), whereat the seat back extends in a direction generally parallel to the interior surface of the rear wallgate, to an un-folded position (Figure 6C), whereat the

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seat back extending a direction generally perpendicular to the interior surface of the rear wallgate, for supporting the back of a passenger seated on the cushion when the rear wallgate is in the horizontal position.

With regard to claim 11, the seat back 8 is operatively attached in such a manner that the seat back is pivoted from the folded to the un-folded position (arrow c in Fig. 6B) as the rear wallgate is pivoted from the vertical to the horizontal position (arrow b in Figure 6A).

With regard to claim 12, the seat back is operatively attached in such a manner that the seat back is pivoted from the un-folded to the folded position as the rear wallgate is pivoted from the horizontal to the vertical position.

With regard to claim 13, the first compartment further includes a front seat (generally 2L, 2R), and the seat cushion and seat back attached to the rear wallgate are stowed between the front seat and interior surface of the rear wallgate, with the seat back in the folded position, when the rear wallgate is in the vertical position (Figure 6A).

With regard to claim 14, the seat back 8 is oriented in the un-folded position so that a passenger (not shown) seated on the seat cushion is facing forward toward the first compartment.

For claim 15, Koiwa et al. disclose a secondary seating apparatus for providing expanded passenger seating in a second compartment of a vehicle body including a first compartment and the second compartment rearwardly adjacent the first compartment, the secondary seating apparatus (Figure 6A-C) comprising: a rear wallgate (not numbered) of the first compartment separating the first and second compartments from one another; the rear wallgate being attached at a lower edge thereof (at hinge pins 10) for pivoting

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movement from a vertical position, whereat the rear wallgate at least partially separates the first compartment from the second compartment, to a horizontal position, whereat the rear wallgate extends into the second compartment; the rear wallgate further defining an interior surface thereof facing into the first compartment when the rear wallgate is in the vertical position and facing generally upward when the rear wallgate is in the horizontal position; and a passenger seating cushion 7 attached to the interior wall of the rear wallgate, whereby a passenger may be seated on the cushion when the rear wallgate is in the horizontal position.

For claim 18, a folding seat back 8 is operatively attached to the rear wallgate for movement from a folded position (Figure 6A-B), whereat the seat back extends in a direction generally parallel to the interior surface of the rear wallgate, to an un-folded position (Figure 6C), whereat the seat back extends in a direction generally perpendicular to the interior surface of the rear wallgate, for supporting the back of a passenger (not shown) seated on the cushion when the rear wallgate is in the horizontal position.

With regard to claim 19, the seat back 8 is oriented in the un-folded position so that a passenger (not shown) seated on the seat cushion is facing forward toward the first compartment.

For claim 20, Koiwa et al. inherently disclose a method for providing expanded passenger seating in a second compartment of a vehicle body including a first compartment and the second compartment rearwardly adjacent the first compartment, the method comprising: providing a rear wallgate of the first compartment for optionally separating the first and second compartments from one another, and having an interior surface thereof facing into the first compartment; attaching the rear wallgate (Figs 6A-C)

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at a lower edge thereof (at hinge pins 10) for pivoting movement from the vertical position, whereat the rear wallgate at least partially separates the first compartment from the second compartment with the interior surface of the wallgate facing into the first compartment, to a horizontal position, whereat the rear wallgate extends into the second compartment with the interior surface of the rear wallgate facing generally upward; and attaching a passenger seating cushion 7 to the interior wall of the rear wallgate, whereby a passenger (not shown) may be seated on the cushion when the rear wallgate is in the horizontal position.

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).



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9. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koiwa et al. as applied to claims 1 and 15 above, and further in view of JP '424.

Koiwa et al. disclose the second compartment including a cargo bed but lack the rear wallgate latching to the bed when the rear wallgate is in the horizontal position.

JP 357104424A teaches a folding seat for a vehicle having first and second compartments separated by a rear wallgate which also forms a seat cushion for a passenger. The rear wallgate is capable of latching to the bed (generally via lockup means 13 and striker 14, Figure 5), when the rear wallgate is in a horizontal position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a latch as taught by JP '424 for the rear wallgate of Koiwa et al. in order to secure the rear wallgate to the bed in the horizontal position.

#### *Allowable Subject Matter*

10. Claims 7-9 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**13. Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231


**or faxed to:**

(703) 872-9326, (for formal communications intended for entry)

**or:**

(703) 746-3515, (for informal or draft communications, please clearly

label "PROPOSED" or "DRAFT").

  
Hilary Gutman  
July 13, 2004